



General Assembly

February Session, 2020

Raised Bill No. 85

LCO No. 548



Referred to Committee on AGING

Introduced by:
(AGE)

AN ACT DETERRING AGE DISCRIMINATION IN EMPLOYMENT APPLICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46a-60 of the 2020 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2020*):

4 (a) As used in this section:

5 (1) "Pregnancy" means pregnancy, childbirth or a related condition,
6 including, but not limited to, lactation;

7 (2) "Reasonable accommodation" means, but [shall not be] is not
8 limited to, being permitted to sit while working, more frequent or longer
9 breaks, periodic rest, assistance with manual labor, job restructuring,
10 light duty assignments, modified work schedules, temporary transfers
11 to less strenuous or hazardous work, time off to recover from childbirth
12 or break time and appropriate facilities for expressing breast milk; and

13 (3) "Undue hardship" means an action requiring significant difficulty

14 or expense when considered in light of factors such as (A) the nature
15 and cost of the accommodation; (B) the overall financial resources of the
16 employer; (C) the overall size of the business of the employer with
17 respect to the number of employees, and the number, type and location
18 of its facilities; and (D) the effect on expenses and resources or the
19 impact otherwise of such accommodation upon the operation of the
20 employer.

21 (b) It shall be a discriminatory practice in violation of this section:

22 (1) For an employer, by the employer or the employer's agent, except
23 in the case of a bona fide occupational qualification or need, to refuse to
24 hire or employ or to bar or to discharge from employment any
25 individual or to discriminate against [such] any individual in
26 compensation or in terms, conditions or privileges of employment
27 because of the individual's race, color, religious creed, age, sex, gender
28 identity or expression, marital status, national origin, ancestry, present
29 or past history of mental disability, intellectual disability, learning
30 disability, physical disability, including, but not limited to, blindness or
31 status as a veteran;

32 (2) For any employment agency, except in the case of a bona fide
33 occupational qualification or need, to fail or refuse to classify properly
34 or refer for employment or otherwise to discriminate against any
35 individual because of such individual's race, color, religious creed, age,
36 sex, gender identity or expression, marital status, national origin,
37 ancestry, present or past history of mental disability, intellectual
38 disability, learning disability, physical disability, including, but not
39 limited to, blindness or status as a veteran;

40 (3) For a labor organization, because of the race, color, religious creed,
41 age, sex, gender identity or expression, marital status, national origin,
42 ancestry, present or past history of mental disability, intellectual
43 disability, learning disability, physical disability, including, but not
44 limited to, blindness or status as a veteran of any individual to exclude
45 from full membership rights or to expel from its membership such

46 individual or to discriminate in any way against any of its members or
47 against any employer or any individual employed by an employer,
48 unless such action is based on a bona fide occupational qualification;

49 (4) For any person, employer, labor organization or employment
50 agency to discharge, expel or otherwise discriminate against any person
51 because such person has opposed any discriminatory employment
52 practice or because such person has filed a complaint or testified or
53 assisted in any proceeding under section 46a-82, 46a-83 or 46a-84;

54 (5) For any person, whether an employer or an employee or not, to
55 aid, abet, incite, compel or coerce the doing of any act declared to be a
56 discriminatory employment practice or to attempt to do so;

57 (6) For any person, employer, employment agency or labor
58 organization, except in the case of a bona fide occupational qualification
59 or need, to advertise employment opportunities in such a manner as to
60 restrict such employment so as to discriminate against individuals
61 because of their race, color, religious creed, age, sex, gender identity or
62 expression, marital status, national origin, ancestry, present or past
63 history of mental disability, intellectual disability, learning disability,
64 physical disability, including, but not limited to, blindness or status as a
65 veteran;

66 (7) For an employer, by the employer or the employer's agent: (A) To
67 terminate a woman's employment because of her pregnancy; (B) to
68 refuse to grant to that employee a reasonable leave of absence for
69 disability resulting from her pregnancy; (C) to deny to that employee,
70 who is disabled as a result of pregnancy, any compensation to which
71 she is entitled as a result of the accumulation of disability or leave
72 benefits accrued pursuant to plans maintained by the employer; (D) to
73 fail or refuse to reinstate the employee to her original job or to an
74 equivalent position with equivalent pay and accumulated seniority,
75 retirement, fringe benefits and other service credits upon her signifying
76 her intent to return unless, in the case of a private employer, the
77 employer's circumstances have so changed as to make it impossible or

78 unreasonable to do so; (E) to limit, segregate or classify the employee in
79 a way that would deprive her of employment opportunities due to her
80 pregnancy; (F) to discriminate against an employee or person seeking
81 employment on the basis of her pregnancy in the terms or conditions of
82 her employment; (G) to fail or refuse to make a reasonable
83 accommodation for an employee or person seeking employment due to
84 her pregnancy, unless the employer can demonstrate that such
85 accommodation would impose an undue hardship on such employer;
86 (H) to deny employment opportunities to an employee or person
87 seeking employment if such denial is due to the employee's request for
88 a reasonable accommodation due to her pregnancy; (I) to force an
89 employee or person seeking employment affected by pregnancy to
90 accept a reasonable accommodation if such employee or person seeking
91 employment (i) does not have a known limitation related to her
92 pregnancy, or (ii) does not require a reasonable accommodation to
93 perform the essential duties related to her employment; (J) to require an
94 employee to take a leave of absence if a reasonable accommodation can
95 be provided in lieu of such leave; and (K) to retaliate against an
96 employee in the terms, conditions or privileges of her employment
97 based upon such employee's request for a reasonable accommodation;

98 (8) For an employer, by the employer or the employer's agent, for an
99 employment agency, by itself or its agent, or for any labor organization,
100 by itself or its agent, to harass any employee, person seeking
101 employment or member on the basis of sex or gender identity or
102 expression. If an employer takes immediate corrective action in
103 response to an employee's claim of sexual harassment, such corrective
104 action shall not modify the conditions of employment of the employee
105 making the claim of sexual harassment unless such employee agrees, in
106 writing, to any modification in the conditions of employment.
107 "Corrective action" taken by an employer, includes, but is not limited to,
108 employee relocation, assigning an employee to a different work
109 schedule or other substantive changes to an employee's terms and
110 conditions of employment. Notwithstanding an employer's failure to
111 obtain a written agreement from an employee concerning a modification

112 in the conditions of employment, the commission may find that
113 corrective action taken by an employer was reasonable and not of
114 detriment to the complainant based on the evidence presented to the
115 commission by the complainant and respondent. As used in this
116 subdivision, "sexual harassment" means any unwelcome sexual
117 advances or requests for sexual favors or any conduct of a sexual nature
118 when (A) submission to such conduct is made either explicitly or
119 implicitly a term or condition of an individual's employment, (B)
120 submission to or rejection of such conduct by an individual is used as
121 the basis for employment decisions affecting such individual, or (C)
122 such conduct has the purpose or effect of substantially interfering with
123 an individual's work performance or creating an intimidating, hostile or
124 offensive working environment;

125 (9) For an employer, by the employer or the employer's agent, for an
126 employment agency, by itself or its agent, or for any labor organization,
127 by itself or its agent, to request or require information from an
128 employee, person seeking employment or member relating to the
129 individual's child-bearing age or plans, pregnancy, function of the
130 individual's reproductive system, use of birth control methods, or the
131 individual's familial responsibilities, unless such information is directly
132 related to a bona fide occupational qualification or need, provided an
133 employer, through a physician may request from an employee any such
134 information which is directly related to workplace exposure to
135 substances which may cause birth defects or constitute a hazard to an
136 individual's reproductive system or to a fetus if the employer first
137 informs the employee of the hazards involved in exposure to such
138 substances;

139 (10) For an employer, by the employer or the employer's agent, after
140 informing an employee, pursuant to subdivision (9) of this subsection,
141 of a workplace exposure to substances which may cause birth defects or
142 constitute a hazard to an employee's reproductive system or to a fetus,
143 to fail or refuse, upon the employee's request, to take reasonable
144 measures to protect the employee from the exposure or hazard
145 identified, or to fail or refuse to inform the employee that the measures

146 taken may be the subject of a complaint filed under the provisions of
147 this chapter. Nothing in this subdivision is intended to prohibit an
148 employer from taking reasonable measures to protect an employee from
149 exposure to such substances. For the purpose of this subdivision,
150 "reasonable measures" shall be those measures which are consistent
151 with business necessity and are least disruptive of the terms and
152 conditions of the employee's employment;

153 (11) For an employer, by the employer or the employer's agent, for an
154 employment agency, by itself or its agent, or for any labor organization,
155 by itself or its agent: (A) To request or require genetic information from
156 an employee, person seeking employment or member, or (B) to
157 discharge, expel or otherwise discriminate against any person on the
158 basis of genetic information. For the purpose of this subdivision,
159 "genetic information" means the information about genes, gene
160 products or inherited characteristics that may derive from an individual
161 or a family member; and

162 (12) For an employer, by the employer or the employer's agent, to
163 request or require a prospective employee's age, date of birth, dates of
164 attendance at or date of graduation from an educational institution on
165 an initial employment application, provided the provisions of this
166 subdivision shall not apply to any employer requesting or requiring
167 such information (A) based on a bona fide occupational qualification or
168 need, or (B) when such information is required to comply with any
169 provision of state or federal law.

170 (c) (1) The provisions of this section concerning age shall not apply
171 to: (A) The termination of employment of any person with a contract of
172 unlimited tenure at an independent institution of higher education who
173 is mandatorily retired, on or before July 1, 1993, after having attained
174 the age of seventy; (B) the termination of employment of any person
175 who has attained the age of sixty-five and who, for the two years
176 immediately preceding such termination, is employed in a bona fide
177 executive or a high policy-making position, if such person is entitled to
178 an immediate nonforfeitable annual retirement benefit under a pension,

179 profit-sharing, savings or deferred compensation plan, or any
180 combination of such plans, from such person's employer, which equals,
181 in aggregate, at least forty-four thousand dollars; (C) the termination of
182 employment of persons in occupations, including police work and fire-
183 fighting, in which age is a bona fide occupational qualification; (D) the
184 operation of any bona fide apprenticeship system or plan; or (E) the
185 observance of the terms of a bona fide seniority system or any bona fide
186 employee benefit plan for retirement, pensions or insurance which is not
187 adopted for the purpose of evading said provisions, except that no such
188 plan may excuse the failure to hire any individual and no such system
189 or plan may require or permit the termination of employment on the
190 basis of age. No such plan which covers less than twenty employees may
191 reduce the group hospital, surgical or medical insurance coverage
192 provided under the plan to any employee who has reached the age of
193 sixty-five and is eligible for Medicare benefits or any employee's spouse
194 who has reached age sixty-five and is eligible for Medicare benefits
195 except to the extent such coverage is provided by Medicare. The terms
196 of any such plan which covers twenty or more employees shall entitle
197 any employee who has attained the age of sixty-five and any employee's
198 spouse who has attained the age of sixty-five to group hospital, surgical
199 or medical insurance coverage under the same conditions as any
200 covered employee or spouse who is under the age of sixty-five.

201 (2) No employee retirement or pension plan may exclude any
202 employee from membership in such plan or cease or reduce the
203 employee's benefit accruals or allocations under such plan on the basis
204 of age. The provisions of this subdivision shall be applicable to plan
205 years beginning on or after January 1, 1988, except that for any
206 collectively bargained plan this subdivision shall be applicable on the
207 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date of
208 the collective bargaining agreement, or (ii) January 1, 1988.

209 (3) The provisions of this section concerning age shall not prohibit an
210 employer from requiring medical examinations for employees for the
211 purpose of determining such employees' physical qualification for
212 continued employment.

213 (4) Any employee who continues employment beyond the normal
214 retirement age in the applicable retirement or pension plan shall give
215 notice of intent to retire, in writing, to such employee's employer not
216 less than thirty days prior to the date of such retirement.

217 (d) (1) An employer shall provide written notice of the right to be free
218 from discrimination in relation to pregnancy, childbirth and related
219 conditions, including the right to a reasonable accommodation to the
220 known limitations related to pregnancy pursuant to subdivision (7) of
221 subsection (b) of this section to: (A) New employees at the
222 commencement of employment; (B) existing employees within one
223 hundred twenty days after the effective date of this section; and (C) any
224 employee who notifies the employer of her pregnancy within ten days
225 of such notification. An employer may comply with the provisions of
226 this section by displaying a poster in a conspicuous place, accessible to
227 employees, at the employer's place of business that contains the
228 information required by this section in both English and Spanish. The
229 Labor Commissioner may adopt regulations, in accordance with
230 chapter 54, to establish additional requirements concerning the means
231 by which employers shall provide such notice.

232 (2) The Commission on Human Rights and Opportunities shall
233 develop courses of instruction and conduct ongoing public education
234 efforts as necessary to inform employers, employees, employment
235 agencies and persons seeking employment about their rights and
236 responsibilities under this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2020	46a-60

Statement of Purpose:

To prevent the use of initial employment applications to discriminate against potential employees based on age.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]